

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

In the Bankruptcy Matter of:

James L. Wheeler

Debtor

Bankruptcy No. 18-00462
Judge A. Benjamin Goldgar
Chapter: 13

NOTICE OF MOTION

TO: James L. Wheeler, PO Box 896, Zion, IL 60099
Glenn B. Stearns, 801 Warrenville Road, Suite 650, Lisle, IL 60532
David M. Siegel, David M. Siegel & Associates, 790 Chaddick Drive, Wheeling, IL 60090
Patrick S Layng, Office of the U.S. Trustee, Region 11, 219 S Dearborn St, Room 873, Chicago, IL 60604

Please take notice on March 9, 2018 at 9:30 AM, I shall appear before the Honorable A. Benjamin Goldgar, in Courtroom B, North Branch Court (Round Lake Beach), 1792 Nicole Lane, Round Lake Beach, IL 60073, and present the attached motion at which time you may appear if you wish.

/s/ Josephine J. Miceli

Josephine J. Miceli, IL ARDC #6243494

CERTIFICATE OF SERVICE

I, Josephine J. Miceli, an attorney certify that I served the attached motion by mailing a copy to the Debtor at the address listed above by depositing the same in the U.S. mail, first class, postage prepaid at 230 W. Monroe St., Chicago, IL 60606 on or before 5:00 p.m. on February 12, 2018. The remaining parties were served by the CM/ECF electronic noticing system.

/s/ Josephine J. Miceli

Josephine J. Miceli, IL ARDC #6243494

Josephine J. Miceli
Johnson, Blumberg, & Associates, LLC
230 W. Monroe Street, Suite 1125
Chicago, Illinois 60606
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NOTICE:

THIS LAW FIRM IS ATTEMPTING TO COLLECT A DEBT AND ANY
INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE

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MOTION FOR RELIEF FROM THE AUTOMATIC STAY

NOW COMES U.S. Bank Trust National Association, not in its individual capacity but solely as Owner Trustee for Newlands Asset Holding Trust (hereinafter “Movant”), through its attorney, Josephine J. Miceli of Johnson, Blumberg & Associates, LLC, and states as follows:

1. The Movant, a party in interest, holds a Mortgage dated June 20, 2003 on the property located at 2816 Edina Blvd, Zion, IL 60099, in the original amount of \$135,807.00. (A copy of the Note, Mortgage and Assignment are attached as Exhibit A, B and C respectively and incorporated herein by reference).
2. The above-captioned Chapter 13 case was filed on January 8, 2018 and the Debtor's Plan has not yet been confirmed.
3. The proposed plan provides for the Debtor to be the disbursing agent for the post petition mortgage payments and the Chapter 13 Trustee to be disbursing agent for the pre-petition arrears.
4. Movant filed a Complaint to Foreclosure Mortgage on October 23, 2015.
5. Movant caused to be entered a Judgment pursuant to said Complaint on August 23, 2017.

6. On November 28, 2017, a sale was held, at which the Movant bought the subject property for \$89,300.00. A copy of the Selling Officer's Report of Sale and Distribution is attached hereto and incorporated hereto as Exhibit D.
7. At the time of sale the Debtor owed a total of \$216,494.89.
8. On January 8, 2018, the Debtor filed this Chapter 13 Bankruptcy.
9. That the sale was valid as it occurred before the filing of this case.
10. That pursuant to 11 U.S.C.S. § 1322(c)(1), the Debtor's right to cure the default extends only to the sale of the property. Colon v. Option One Mortg. Corp., 319 F.3d 912 (7th Cir. Ill. 2003)
11. The Movant adopts the facts set forth in the Statement of Default as additional allegations in support of this motion.
12. That Movant is entitled to relief pursuant to 11 U.S.C. 362(d).
13. The Movant requests waiver of 14 day stay provision of Bankruptcy Rule of Procedure 4001(a)(3).

WHEREFORE, U.S. Bank Trust National Association, not in its individual capacity but solely as Owner Trustee for Newlands Asset Holding Trust prays for the entry of an order modifying, annulling or terminating the Automatic Stay instantner to allow foreclosure, eviction, or any other action with respect to the Movant protecting its rights in the subject property as the Court deems appropriate and for such other relief as the Court deems just.

/s/ Josephine J. Miceli

Josephine J. Miceli, ARDC #6243494
Attorney for U.S. Bank Trust National Association,
not in its individual capacity but solely as Owner
Trustee for Newlands Asset Holding Trust

Josephine J. Miceli
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